

**PART 1320—EXTENSION OF CREDIT TO SHIPPERS BY RAIL COMMON CARRIERS, MOTOR COMMON CARRIERS, WATER COMMON CARRIERS, AND HOUSEHOLD GOODS FREIGHT FORWARDERS**

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AUTHORITY: 5 U.S.C. 553 and 49 U.S.C. 10321, 10701, 10702, 10741, 10743, and 10744.

SOURCE: 50 FR 2290, Jan 16, 1985, unless otherwise noted.

**§ 1320.1 Scope.**

(a) *General.* These regulations apply to the extension of credit in the transportation of property under Interstate Commerce Commission regulation by rail, motor, and water carriers and household goods freight forwarders, except as otherwise provided.

(b) *Exceptions.* These regulations do not apply to—

- (1) Contract carriage operations.
- (2) Transportation for—
  - (i) The United States or any department, bureau, or agency thereof,
  - (ii) Any State, or political subdivision thereof,
  - (iii) The District of Columbia.
- (3) Property transportation incidental to passenger operations.

[50 FR 2290, Jan. 16, 1985, as amended at 51 FR 44297, Dec. 9, 1986]

**§ 1320.2 Extension of credit to shippers.**

(a) *Authorization to extend credit.* (1) A carrier that meets the requirements in paragraph (a)(2) of this section may—

- (i) Relinquish possession of freight in advance of the payment of the tariff charges, and
- (ii) Extend credit in the amount of such charges to those who undertake

to pay them (such persons are called *shippers* in this part).

(2) For such authorization, the carrier shall take reasonable actions to assure payment of the tariff charges within the credit periods specified—

- (i) In this part, or
- (ii) In tariff provisions published pursuant to the regulations in paragraph (d) of this section.

(b) *When the credit period begins.* The credit period shall begin on the day following presentation of the freight bill.

(c) *Length of credit period.* Unless a different credit period has been established by tariff publication pursuant to paragraph (d) of this section, the credit period is 15 days. It includes Saturdays, Sundays, and legal holidays.

(d) *Carriers may establish different credit periods in tariff rules.* Carriers may publish tariff rules establishing credit periods different from those in paragraph (c) of this section. Such credit periods shall not be longer than 30 calendar days.

(e) *Service charges.* (1) Service charges shall not apply when credit is extended and payments are made within the standard credit period. The term *standard credit period*, as used in the preceding sentence, means—

- (i) The credit period prescribed in paragraph (c) of this section, or
- (ii) A substitute credit period published in a tariff rule pursuant to the authorization in paragraph (d) of this section.

(2) Carriers may, by tariff rule, extend credit for an additional time period, subject if they wish to a service charge for that additional time. The combined length of the carrier's standard credit period (as defined in paragraph (e)(1) of this section) and its additional credit period shall not exceed the 30-day maximum credit period prescribed in paragraph (d) of this section. When such a tariff rule is in effect, shippers may elect to postpone payment until the end of the extended credit period if, in consideration thereof, they include any published service charges when making their payment.

(3) Carriers may, by tariff rule, establish service charges for payments made after the expiration of an authorized credit period. Such a rule shall—

(i) Institute such charges on the day following the last day of an authorized credit period, and

(ii) Notify shippers—

(A) That its only purpose is to prevent a shipper who does not pay on time from having free use of funds due to the carrier,

(B) That it does not sanction payment delays, and

(C) That failure to pay within the authorized credit period will, despite this provision for such charges, continue to require the carrier, before again extending credit, to determine in good faith whether the shipper will comply with the credit regulations in the future.

(4) Tariff rules that establish charges pursuant to paragraph (e) (2) or (3) of this section may establish minimum charges.

(f) *Discounts.* Carriers may, by tariff rule, authorize discounts for early freight bill payments when credit is extended.

(g)(1) *Collection expense charges.* Carriers may, by tariff rule, assess reasonable and certain liquidated damages for all costs incurred in the collection of overdue freight charges. Carriers may use one of two methods in their tariffs:

(i) The first method is to assess liquidated damages as a separate additional charge to the unpaid freight bill. In doing so, the tariff rule shall disclose the exact amount of the charges by stating either a dollar or specified percentage amount (or a combination of both) of the unpaid freight bill. The tariff shall further specify the time period (which shall at least allow for the authorized credit period) within which the shipper must pay to avoid such liquidated damages.

(ii) The second method is to require payment of the full, nondiscounted rate instead of the discounted rate otherwise applicable. The difference between the discount and the full rate constitutes a carrier's liquidated damages for its collection effort. Under this method the tariff shall identify the discount rates that are subject to the condition precedent and which require the shipper to make payment by a date certain. The date certain may not be set to occur by the carrier until at

least after the expiration of the carrier's authorized credit period.

(2) The damages, the timing of their applicability, and the conditions, if any, as provided by the tariff-rule methods allowed under paragraphs (g)(1) (i) and (ii) of this section also:

(i) Shall be clearly described in the tariff rule;

(ii) Shall be applied without unlawful prejudice and/or unjust discrimination between similarly situated shippers and/or consignees;

(iii) Shall be applied only to the non-payment of original, separate and independent freight bills and shall not apply to aggregate *balance-due* claims sought for collection on past shipments by a bankruptcy trustee, or any other person or agent;

(iv) Shall not apply to instances of clear clerical or ministerial error such as non-receipt of a carrier's freight bill, or shipper's payment check lost in the mail, or carrier mailing of the freight bill to the wrong address;

(v) Shall not apply in any way to a charge for a transportation service if the carrier's bill of lading independently provides that the shipper is liable for fees incurred by the carrier in the collection of freight charges on that same transportation service;

(vi) shall be applied only after the authorized credit period, and when the carrier has issued a revised freight bill or notice of imposition of collection expense charges for late payment within 90 days after expiration of the authorized credit period.

(3) As an alternative to the tariff-rule methods allowed under paragraphs (g)(1) (i) and (ii) of this section, a carrier may, wholly outside of its tariff, assess collection charges though contract terms in a bill of lading. By using the carrier and its bill of lading, the shipper accepts the bill of lading terms.

(h) *Discrimination prohibited.* Tariff rules published pursuant to paragraphs (d), (e), and (f) of this section shall not result in unreasonable discrimination among shippers.

[50 FR 2290, Jan 16, 1985, as amended at 53 FR 6991, Mar. 4, 1988; 54 FR 30748, July 24, 1989]

**§ 1320.3 Presentation of freight bills.**

(a) *"To be prepaid" shipments.* (1) On "to be prepaid" shipments, the carrier shall present its freight bill for all transportation charges within the time period prescribed in paragraph (a)(2) of this section, except—

(i) As noted in paragraph (d) of this section, or

(ii) As otherwise excepted in this part.

(2) The time period for a carrier to present its freight bill for all transportation charges shall be 7 days, measured from the date the carrier received the shipment. This time period does not include Saturdays, Sundays, or legal holidays.

(b) *"Collect" shipments.* (1) On "collect" shipments, the carrier shall present its freight bill for all transportation charges within the time period prescribed in paragraph (b)(2) and of this section, except—

(i) As noted in paragraph (d) of this section, or

(ii) As otherwise excepted in this part.

(2) The time period for a carrier to present its freight bill for all transportation charges shall be 7 days, measured from the date the shipment was delivered at its destination. This time period does not include Saturdays, Sundays, or legal holidays.

(c) *Bills or accompanying written notices shall state penalties for late payment, credit time limits and service charge and/or collection expense charge and discount terms.* When credit is extended, freight bills or a separate written notice accompanying a freight bill or a group of freight bills presented at one time shall state that "failure timely to pay freight charges may be subject to tariff penalties" (or a statement of similar import). The bills or other notice shall also state the time by which payment must be made and any applicable service charge and/or collection expense charge and discount terms.

(d) *When the carrier lacks sufficient information to compute tariff charges.* (1) When information sufficient to enable the carrier to compute the tariff charges is not then available to the carrier at its billing point, the carrier shall present its freight bill for payment within 7 days following the day

upon which sufficient information becomes available at the billing point. This time period does not include Saturdays, Sundays, or legal holidays.

(2) A carrier shall not extend further credit to any shipper which fails to furnish sufficient information to allow the carrier to render a freight bill within a reasonable time after the shipment is tendered to the origin carrier.

(3) As used in this paragraph, the term "shipper" includes, but is not limited to, freight forwarders, and shippers' associations and shippers' agents within the meaning of 49 U.S.C. 10562 (3) and (4).

(e) *Freight bill presentation on railroad transported export traffic loaded into vessels.* The term *delivered at its destination* as used in paragraph (b)(2) of this section shall mean the time when the vessel is completely loaded, when—

(1) The traffic in export traffic that is loaded into vessels either—

(i) Direct from railroad cars or piers, or

(ii) From such cars or piers by means of lighters, and

(2) The freight bills are presented to vessel owners or their representatives.

[50 FR 2290, Jan 16, 1985, as amended at 53 FR 6991, Mar. 4, 1988; 54 FR 30748, July 24, 1989]

**§ 1320.4 Effect of mailing freight bills or payments.**

(a) *Presentation of freight bills by mail.* When carriers present freight bills by mail, the time of mailing shall be deemed to be the time of presentation of the bills. The term *freight bills*, as used in this paragraph, includes both paper documents and billing by use of electronic media such as computer tapes or disks, when the mails are used to transmit them.

(b) *Payment by mail.* When shippers mail acceptable checks, drafts, or money orders in payment of freight charges, the act of mailing them within the credit period shall be deemed to be the collection of the tariff charges within the credit period for the purposes of the regulations in this part.

(c) *Disputes as to date of mailing.* In case of dispute as to the date of mailing, the postmark shall be accepted as such date.

**§ 1320.5 Additional charges.**

When a carrier—

(a) Has collected the amount of tariff charges represented in a freight bill presented by it as the total amount of such charges, and

(b) Thereafter presents to the shipper another freight bill for additional charges—

the carrier may extend credit in the amount of such additional charges for a period of 30 calendar days from the date of the presentation of the freight bill for the additional charges.

**§ 1320.6 Computation of time.**

Time periods involving calendar days shall be calculated pursuant to 49 CFR 1104.7(a).

**§ 1320.7 Charges under average demurrage agreements.**

(a) *Conditions for special credit rules regarding demurrage charges.* The rules in paragraph (b) of this section shall apply to demurrage charges, if—

(1) The amount of demurrage charges is determinable under average agreements made in accordance with tariff provisions, and

(2) The carrier takes reasonable actions to assure payment of the tariff charges within the credit period.

(b) *Special credit rules for demurrage charges.* When both conditions in paragraph (a) of this section are met, the carrier may—

(1) Delay presentation of bills for such demurrage charges for a period not exceeding 15 calendar days after the end of the authorized demurrage period, and

(2) Extend credit, in the amount of the demurrage charges accrued during the demurrage period, for 15 calendar days from the date of presentation of the bill for such charges.

**§ 1320.8 Household goods shipments by motor common carriers.**

(a) *Exceptions—Household goods “collect on delivery” shipments.* The regulations in the other sections of this part and in paragraph (c) of this section do not apply when the carrier is required by 49 CFR 1056.3(d) to relinquish possession of an otherwise “collect on delivery” household goods shipment in

advance of payment of all of the charges.

(b) *Charge card reversed transactions.* The regulations of this part apply when—

(1) Charges for household goods movements are paid by use of charge cards pursuant to 49 CFR 1056.19, and

(2) The shipper forces an involuntary extension of credit by the carrier by causing the charge card issuer to reverse the charge transaction and charge payments back to the carrier’s account.

(c) *Exceptions—House goods credit shipments.* The provisions in paragraphs (c) (1) through (3) of this section are exceptions to the other regulations in this part. They apply to credit extensions for household goods transportation by motor common carriers (except as provided in paragraph (a) of this section)—

(1) A freight bill shall be presented within 15 days (excluding Saturdays, Sundays, and legal holidays) of the date of delivery of a shipment at its destination.

(2) The credit of period is 7 days (excluding Saturdays, Sundays, and legal holidays).

(3) Motor Common carriers of household goods must provide in their tariffs that—

(i) The credit period shall automatically be extended to a total of 30 calendar days for any shipper who has not paid the carrier’s freight bill within the 7-day period.

(ii) Such shipper will be assessed a service charge by the carrier equal to 1 percent of the amount of the freight bill, subject to a \$10 minimum charge, for such extension of the credit period, and

(iii) No such carrier shall grant credit to any shipper who fails to pay a duly presented freight bill within the 30-day period, unless and until such shipper affirmatively satisfies the carrier that all future freight bills duly presented will be paid strictly in accordance with the rules and regulations prescribed by the Commission for the settlement of carrier rates and charges.

**§ 1320.9—1320.16 [Reserved]**

**§ 1320.17 Interline settlement of revenues.**

Nothing in this part shall be interpreted as affecting the interline settlement of revenues from traffic which is transported over through routes composed of lines of common carriers subject to Interstate Commerce Commission jurisdiction under Subchapters I, II, or III or Chapter 105 of Title 49, Subtitle IV, of the United States Code.

**PARTS 1321—1324 [RESERVED]**

**PART 1325—EXTENSION OF CREDIT TO CANDIDATES FOR FEDERAL OFFICE OR THEIR REPRESENTATIVES**

Sec.

1325.1 Extension of unsecured credit prohibited.

1325.2 Credit agreements.

1325.3 Federal office.

AUTHORITY: Pub. L. 92-225, the Federal Election Campaign Act of 1971, enacted Feb. 7, 1972.

SOURCE: 37 FR 10446, May 23, 1972, unless otherwise noted.

**§ 1325.1 Extension of unsecured credit prohibited.**

Persons subject to regulation by the Interstate Commerce Commission shall not knowingly and willfully provide, for candidates for Federal office or their representatives, service or goods related to their campaign without obtaining either prepayment or a binding guarantee of payment through a sufficient deposit, bond, collateral, or other means of security. The extension of credit to such persons shall not exceed the amount of the security posted.

**§ 1325.2 Credit agreements.**

(a) All agreements to extend credit to candidates for Federal office or their representatives by persons subject to regulation by the Interstate Commerce Commission (1) must be in writing, (2) must contain a detailed description of the deposit, bond, collateral, or other means of security, used to secure payment of the debt, and (3) must be signed by all parties to the agreement.

A copy of each such agreement must be filed with this Commission's Bureau of Operations in Washington, DC, within 20 days of the date of its execution.

(b) [Reserved]

**§ 1325.3 Federal office.**

For the purposes of this section, *Federal office* means the office of President or Vice President of the United States; or of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress of the United States.

**PART 1331—APPLICATIONS UNDER 49 U.S.C. 10706 TO ESTABLISH OR CONTROL AGREEMENTS BETWEEN OR AMONG CARRIERS**

Sec.

1331.1 Form and content of application.

1331.2 Required exhibits.

1331.3 Procedure.

1331.4 New parties to an agreement.

1331.5 Additional standards for retaining antitrust immunity by passenger bus industry rate bureaus.

AUTHORITY: 49 U.S.C. 10706 and 10321.

SOURCE: 55 FR 11206, Mar. 27, 1990, unless otherwise noted.

**§ 1331.1 Form and content of application.**

The application and supporting exhibits shall conform to 49 CFR part 1104 and shall show, in the order and with the paragraph designations indicated, the following:

(a) Full name and business address of the carrier applicant(s); whether each applicant is a corporation, individual, or partnership; if a corporation, the State of incorporation; and if a partnership, the names of the partners and date of the partnership's formation.

(b) Full name and business address of each entity on whose behalf the application is filed and whether it is a corporation, individual, or partnership.

(c) Whether applicant and each entity on whose behalf the application is filed is a rail, motor, or water carrier, a household goods freight forwarder, or express, sleeping-car, or pipeline company.

(d) If the agreement of which approval is sought pertains to a conference, bureau, committee, or other organization, a complete description of